

**HUD HOUSING CERTIFICATE FUND
NEGOTIATED RULEMAKING ADVISORY COMMITTEE
APRIL 27-28, 1999 MEETING SUMMARY**

I. INTRODUCTION

The HUD Housing Certificate Fund Negotiated Rulemaking Advisory Committee held its first meeting on April 27 and 28, 1999. The Committee was established by HUD as required by the Quality Housing and Work Responsibility Act of 1998. It is chartered as an Advisory Committee under the Federal Advisory Committee Act, and its procedures are governed by the Negotiated Rulemaking Act of 1990.

The Charter for the Committee states "The purpose of the Committee is to discuss and negotiate a rule that would change the current method of distributing funds to public housing agencies (PHAs) for purposes of renewing assistance contracts in the tenant-based Section 8 program. The committee will consist of persons representing stakeholder interests in the outcome of the rule."

The Committee's thirty-one members include representatives of public housing agencies (20); national associations of public housing agencies (4); public interest groups representing the interests of low-income households and Section 8 residents (4); independent public accountants who assist PHAs in meeting HUD Section 8 program budget and accounting requirements.

The Committee's work is being facilitated by the Consensus Building Institute, a neutral non-profit organization that assists stakeholders in reaching consensus on public policy issues, under a cooperative agreement with HUD. The Committee is also being assisted by Andersen Consulting, which will model and analyze data on renewal funding issues under contract with HUD.

This draft meeting summary was prepared by the Consensus Building Institute. It is intended to summarize the range of views on each topic that the Committee discussed, points of agreement and disagreement, and action items. It is not intended to be a transcript of the meeting. Individuals making presentations to the Committee are identified by name. Views expressed during the Committee's discussions are summarized either without attribution, or with attribution to individuals as members of a stakeholder group (HUD, PHA, PHA association, S.8 household, IPA).

II. MEETING WELCOME AND INTRODUCTIONS

HUD Deputy Assistant Secretary Gloria Cousar welcomed the Committee and reviewed several HUD goals for the new renewal funding rule:

- continue assisting families enrolled in the Section 8 program;

- create an efficient process for the use of program funds;
- ensure fairness – to users, administrators and S.8 recipients;
- make use of good data and information;
- make administration effective by providing clear implementing guidelines;
- maintain revenue neutrality relative to the existing rule.

Ms. Cousar noted that HUD has already received helpful input from Section 8 stakeholders at several meetings over the last year. She commented that there may be some issues of concern to Committee members that cannot be fully addressed within the scope of this negotiated rulemaking, either because they fall outside the scope of the rule or because of the tight timeline for developing and publishing the rule. She said that HUD welcomes the Committee's input and hopes that the Committee will develop recommendations that HUD can incorporate fully into the final renewal funding rule.

Ms. Cousar introduced Robert Dalzell, who will be serving as the Committee's Secretary, and several HUD staff who will be assisting the Committee's work. Committee members and observers then introduced themselves. Ms. Cousar then introduced CBI facilitators Larry Susskind and David Fairman. Larry Susskind then introduced the other members of the CBI team, and invited Andersen Consulting staff and observers to introduce themselves (see the attached attendance list).

CBI facilitator Larry Susskind reviewed the agenda for the meeting (at tab 1 of Committee members' binders). He noted that the Committee would discuss the draft ground rules prepared by CBI later in the meeting, and suggested some initial ground rules for the morning's discussion. A Committee member asked if any parties were "missing", i.e. intending to participate but not present for any reason. A HUD representative responded that all the parties published in the Federal Register intended to come, but a few last-minute conflicts meant that some couldn't make this first meeting.

III. DRAFT CONVENING REPORT

David Fairman briefly reviewed the Draft Convening Report which had been distributed to participants. He explained that the main purposes of the Report were to identify key issues that the Committee would need to address; summarize the range of stakeholder views on each of those issues; assess the feasibility of convening a representative stakeholder group and the likelihood that the group could reach agreement on the key issues in the time available; and recommend a process for the group's work.

David discussed the interview process that CBI used for the Report, and highlighted the Report's major sections and process recommendations. He also highlighted several key challenges that the Committee faces: the tight time frame; the need for rapid and accurate data gathering and analysis; the need for HUD to communicate clearly to the

Committee if an issue falls outside the scope of the rulemaking or an option is not administratively or politically feasible; and the need for Committee members to be in close contact with their organizations/constituencies to ensure that the Committee is moving in a direction that can meet their interests.

David then reviewed comments received from Committee members on the draft Report prior to the meeting (a written summary of these comments can be found at tab 6 of Committee members' binders):

- Overall, most Committee members and other interviewees who had reviewed the report felt that it accurately and adequately addressed stakeholders' views and concerns, and supported the proposed negotiated rulemaking process.
- HUD's recent and ongoing efforts to improve the management of the Section 8 program– for instance, creating the Kansas City data center – are not fully reflected in the draft Report;
- It will be important for HUD to clarify whether some specific issues are “on the table” for Committee discussion: merging the certificate and voucher programs, the FMR rule and exception rents, and the income targeting rules for PHAs;
- There were a few factual misstatements in the draft Report, concerning the total number of PHAs administering the tenant-based S.8 program; the current process for allocating renewal funding; and the process for a PHA to request an adjustment in its AAF.

David noted that the draft will be revised to reflect these comments and any others that CBI receives, and that a final Convening Report will be distributed to Committee members and any members of the public who request it.

Committee members then made several additional comments on the draft Report. One member stated that the issue of “portability” was not sufficiently covered, and that it would be important to address, especially for smaller PHAs. It was also noted that portability may need to be addressed in the Committee's discussion of “actual costs”, and possibly other sections of the rule, as well. Discussion among HUD representatives and other Committee members clarified that when the report referred to “budgetary reserves”, that meant each individual Housing Authority's reserves, and not a general “pool” which all of HUD could access. A final comment was that the management expertise of each PHA was important to consider in determining unit and/or budgetary allocations.

IV. MISSION STATEMENT

The Committee next reviewed and discussed the draft Mission Statement prepared by CBI. During the discussion, a number of Committee members suggested possible wording changes to the draft Mission Statement. Others felt that word-smithing the draft Mission Statement might not be a productive use of the group's time. It was

agreed that the facilitators would take the comments of the Committee members and produce a revised draft Mission Statement for review by the full group.

Some Committee members also questioned whether the group needed to reach agreement on a Mission Statement. The facilitator explained that if the Committee could reach agreement on some overarching goals, it could use them as a yardstick for judging its proposals. If it did not have a set of goals to refer to, it would be hard to evaluate proposals on their merits, or to know what still needs to be accomplished. The sense of the group was that it would be worthwhile to seek agreement on a Mission Statement. Discussion then focused on specific elements of the draft Statement.

A HUD representative asked that the preamble be reworded to make it clear that the Committee is advising HUD on a draft rule, rather than drafting the rule itself.

Some Committee members suggested that the rule should seek to support overarching HUD goals, particularly deconcentration of poverty. It was also suggested that the group use the language of the Quality Housing and Work Responsibility Act and other relevant statutes and HUD strategic planning documents to define its goals. It was suggested that the preamble could refer to broader HUD goals without restating each of them.

There was concern from several members that Goal 1 (continuing to assist households currently enrolled in the program) as stated could be interpreted as allowing the attrition of families from the Section 8 program. It was suggested that the wording be changed to clarify that the goal is to assist at least the same number of families who were receiving assistance on Oct. 1, 1997.

Several Committee members questioned whether the goal of continuing to assist the current number of families could be achieved without some increase in the S.8 program budget. Others thought that it would be better to set a more ambitious goal in terms of the number of families assisted. Some members also commented that income targeting requirements could lead to a reduction in number of families assisted.

Other members responded that income targeting and limits on funding are necessary to make sure that PHAs are operating efficiently. If there are no incentives for reaching those in need and maintaining rent reasonableness, then PHA's with poor management (high costs and low service) could continue to operate, and PHAs running efficiently couldn't expand their programs.

On Goal 2 (efficiency and credibility), it was suggested that promoting efficiency and maintaining the program's credibility are two distinct goals, and should be listed separately. There was no comment on Goal 3 (fairness).

It was noted that there could be a trade-off between Goals 4 (stability and predictability of funding) and 5 (using the most accurate and up-to-date data). It was also suggested that accountability for funding is an important goal.

On Goal 6 (clear implementing guidelines and procedures) it was suggested that the S.8 renewal funding guidelines should be as consistent as possible with other HUD guidelines. There was no comment on Goal 7 (clearly designating roles and responsibilities and educating HUD and PHA staff about them).

Most members felt that the ordinal numbers before each Goal should be removed, as they implied some goals should have higher priority than others, and it is not yet clear whether there is a need to prioritize the goals.

The facilitators responded to the group discussion by producing and distributing a Revised Draft Mission Statement. This draft had the consensus support of the group, subject to review by Committee members' constituencies/organizations after the meeting.

V. GROUND RULES

After lunch, the Committee reviewed and discussed the draft Ground Rules. Committee members supported most elements of the draft.

On item II, Representation, a Committee member asked why there was no landlord representative on the Committee. David Fairman explained that CBI had contacted several potential landlord representatives (both individuals and associations) suggested by HUD and by other stakeholders, but none had decided to participate.

On item IIC, Role of Alternates, the group agreed that Committee members would commit to attend all Committee meetings unless there was some unavoidable schedule conflict. Committee members who expect to miss a meeting need to designate an alternate from their organization, to keep that person fully informed about the Committee's work, and to give the alternate clear guidance about the issues to be discussed at any meeting that the alternate will attend instead of the member.

On item IV, Decision Making, Larry Susskind clarified the meaning of the statement "the group will operate by consensus." The Committee's goal is to seek consensus--meaning no dissent by any member of the Committee on the package of proposals and recommendations to be submitted to HUD. In seeking consensus, all members of the Committee must make a sincere effort to meet each other's interests and concerns. If the Committee is unable to reach full consensus on all elements of a package, it will identify points of agreement and outstanding points of disagreement in its report to HUD.

HUD representatives had several comments on the ground rules for Decision Making. They requested that the wording be changed to clarify that the Committee will submit proposals and recommendations to HUD, and HUD will then draft a rule. They also requested that wherever “the HUD Deputy Assistant Secretary” appears, the wording be changed to clarify that a number of HUD senior staff will be involved in decision-making.

HUD representatives also expressed concern about the process for consultation with the Committee and the broader public once HUD has produced a draft rule. The draft ground rules (section IVB and IVC) say that HUD will provide the Committee with HUD’s rule in draft form prior to publishing the final rule, and give Committee members an opportunity to comment on it. The ground rules also say that HUD will hold another meeting of the Committee if necessary to address Committee members’ concerns about the draft rule.

HUD representatives explained that they had not been planning to publish a draft rule for public comment, because HUD is using this negotiated rulemaking process to engage the public in the development of the rule and because time may be too short to allow for additional public comment. They said that once HUD receives the Committee’s recommendations, it will need to go through several additional steps: internal review by senior HUD staff, sign-off by the Secretary, review by the Office of Management and Budget (OMB), and then publication of a final rule in the Federal Register.

In order to publish a final rule by October 21, 1999 as mandated by Congress, HUD will need at least a month after it receives the Committee’s draft to go through the internal and OMB review process. HUD representatives thought that it might be possible for the Committee to review HUD’s draft rule, if the Committee could give HUD its recommendations by the end of July. HUD representatives said that HUD would need further discussion before it could commit to this review process.

A number of Committee members expressed concern about the possibility that HUD’s draft rule might not incorporate all of the Committee’s recommendations, and might run counter to some recommendations. If so, there would need to be an explicit and public acknowledgement of where HUD diverged from the Committee’s recommendations and why.

Several Committee members also said that the broader public needs an opportunity to review and comment on both the Committee’s recommendations and HUD’s rule in draft form. As representative as the Committee seeks to be, a number of Committee members felt that its work should not be seen as a substitute for broad public comment on a draft rule.

In response, HUD representatives said that they would consider how to maximize public comment given the tight time frame for publication of a final rule. Several

options were mentioned: early submission of the Committee's recommendations; holding a public forum on the recommendations and the draft rule; pushing back the schedule for publication of a final rule (which would probably require implementing the final rule on Jan. 1, 2000 instead of Oct. 1, 1999); publishing an "interim final rule" to allow additional time for public comment; and noting differences between the Committee's recommendations and the final rule in the preamble to the rule. HUD representatives committed to report back at the next Committee meeting on opportunities for public review and comment on a draft rule.

VI. WORK PLAN

The Committee reviewed and discussed the draft Work Plan. The facilitators explained that the draft Work Plan is intended to serve as a rough outline of the way the Committee can work through each of the four major issues identified in the draft Convening Report: setting the baseline; calculating actual costs; adjusting and inflating costs; and implementing/administering the rule.

The facilitators also pointed out that the draft Work Plan includes Working Groups. One or more Working Groups may meet between Committee meetings to continue discussion of an issue, to gather and analyze additional information, and to develop options and recommendations for consideration by the full Committee. CBI and Andersen staff will assist the Working Groups.

Committee members generally supported the draft Work Plan as a good basis for planning the Committee's work. Several members expressed concern that the renewal funding rule may be affected by HUD decisions on other issues over the next several months--particularly the merger of the voucher and certificate programs, and possibly by decisions about income targeting requirements and fair market rent (FMR) ceilings. A HUD representative commented that HUD needs to proceed on several of these issues at the same time, and that some of these issues may not be resolved by the time the Committee needs to conclude its work.

A Committee member commented that it will be very helpful if HUD can provide as much information as possible about ongoing policy and administrative changes. This information will help the Committee respond to changing circumstances and minimize conflicts between the S.8 renewal funding rule and other anticipated changes to the tenant-based S.8 program.

The Committee then discussed and agreed on meeting dates. It was decided that all meetings are to be in the Washington, DC area, and that HUD and CBI will provide advance notice to the Committee about locations and travel arrangements for each meeting. HUD representatives apologized for the short notice for the Committee's first meeting and for some confusion about travel policy. They said that HUD will develop a travel policy and inform the Committee about this policy before the next meeting.

VII. BASELINE CALCULATION METHOD

Robert Dalzell presented the current method for calculating the baseline number of units for each PHA's annual contributions contract (ACC) under the current renewal funding rule.

Mr. Dalzell used a series of flowchart diagrams to explain the process for setting the baseline and awarding renewal funding for Fiscal Year (FY) 1998. (*Committee members received the flowcharts, titled "Section 8 Funding Baseline," as a handout at the meeting;*) Mr. Dalzell noted several key features of the baseline setting process:

- HUD defined the **1998 baseline number of units** as the higher of leased or contracted units for each PHA as of October 1, 1997;
- HUD calculated the **1998 grant amount** for each PHA by a) multiplying the baseline number of units by the PHA's actual per-unit cost for FY 1997, and then b) multiplying this amount by the inflation factor for FY 1998 (this factor was 2.5% for all participating PHAs);
- For FY 1999, HUD first determined **1998 amendment units** by adding any new units that each PHA received during FY 1998 (e.g. through Notices of Funding Availability, conversion of Mod Rehab units) and subtracting any that left the program during FY 1998;
- HUD then a) multiplied each PHA's net amended units by the PHA's actual per-unit cost for FY 1998; and b) multiplied this amount by the 2.5% inflation factor for FY 1998 to determine the **1998 amended grant amount**;
- HUD then added the 1998 amendment grant amount to the FY 1998 baseline grant amount, creating a **1998 updated baseline grant amount**;
- HUD then calculated the **1999 baseline grant amount** by multiplying the 1998 updated baseline amount by a 1999 inflation factor--this factor was an annual adjustment factor (AAF) determined by HUD for each major metropolitan and non-metropolitan region.

A number of Committee members asked about specific details, accounting rules and anomalies of the current rule. Several PHA Committee members reported discrepancies between their unit counts and HUD's. Mr. Dalzell noted that discrepancies could be caused by data entry problems, or by differences in interpretations of unit or project classifications.

A Committee member asked whether it would be possible for PHAs to cross-check the data in HUD's HUDCAPS system against their own data, perhaps using the internet. HUD representatives responded that another negotiated rulemaking committee is looking into this possibility. The group discussed ways that each PHA could have the information available in HUDCAPS, either through reports, information sharing, or direct computer access. HUD representatives said that the Committee could recommend some form of access; they said they would double-check with their systems people to see what kinds of information could be shared, and how it could be shared.

A number of Committee members felt that the Oct. 1, 1997 baseline date was somewhat arbitrary, and noted that a significant number of PHAs had been adversely affected by HUD determinations that their programs should be allowed fewer units than were actually leased. HUD representatives responded that HUD had revised the baseline determination method to ensure that each PHA would receive the higher of the number contracted or the number leased on Oct. 1, 1997. A Committee member said that there were still some PHAs that were forced to attrit families during FY 1998 because they had budgeted for program expansion, had not learned of HUD's determinations in time to stop new leasing, and therefore had to attrit families to stay within the unit limits that HUD set for their programs for that year.

The Committee then discussed the possibility of moving from the current "unit-based" funding system (using units as the basis for determining annual funding amounts) to a "dollar-based" system. A dollar-based system could fund PHAs by adjusting their previous year's dollar grant amount to account for inflation in local rental costs (and possibly other factors, e.g. changes in average tenant income, changes in the distribution of S.8 unit bedroom sizes), without considering how many units were rented through the program in the previous year.

A substantial majority of PHA Committee members and others present indicated that they might prefer a dollar-based system, for reasons of administrative simplicity. One Committee member also commented that a dollar-based system might give individual PHAs greater incentive to meet HUD program goals, because it would create greater incentives for cost containment.

Several PHA members and S.8 resident/advocate members had concerns about switching to a dollar-based system, because it might lead to significant swings in the number of families assisted year-to-year. Some HUD representatives also expressed concern that it might be harder to defend a dollar-based system against budget cuts. Under a dollar-based system, it might not be as clear that budget cuts would lead to a reduction in the number of families served.

Larry Susskind then facilitated a "brainstorming session" of baseline issues for further discussion, which yielded:

- Pros and cons of dollar- and unit-based renewal funding formulas
- What date is used to establish baseline? Can each PHA pick the most advantageous date for them?
- Cost factor without regard to performance of the individual PHA
- Portability
- Baseline cost vs. baseline units, and how much emphasis for each
- Exemption rents
- Analyze suggested baseline methods in light of our Mission and Goals
- Ways of measuring lease rates
- If per unit cost is predicted as too low, then not enough families can be helped, and future direction of program is jeopardized.
- Wrong unit count – make sure the unit amount is accurate. Or create a way to correct it.
- Incorporate “elasticity” and flexibility of the baseline for each PHA
- Issue of bedroom sizes – prescribed vs. actual
- How to handle anomalies, outliers. What are they and what to do?
- Baselines should contain incentives to reward economizing on program costs
- Economic factors – local jobs, farms, factories, losing a few units can severely affect a small HA. Especially important with unit-based allocation.
- Differentiating among different types of authorities (small, large, rural, urban)

The Committee adjourned for the day.

VIII. BASELINE ISSUES AND OPTIONS

On Wednesday April 28 the Committee resumed its discussion of baseline issues. Larry Susskind opened the discussion by suggesting three criteria that the Committee keep in mind as it discussed baseline issues and options: meeting stakeholder interests; being manageable for HUD; and meeting the goals outlined in the revised draft Mission Statement. He noted that it might be necessary for a Working Group and the Andersen Consulting team to model several different alternatives for setting the baseline and report back to the group at its next meeting.

A. Further discussion of the Oct. 1, 1997 baseline and amendments to it

HUD staff clarified that the Quality Housing and Work Responsibility Act requires HUD to assist *at a minimum* the number of families being assisted on Oct. 1, 1997. HUD representatives said that HUD could make some adjustments to the Oct. 1, 1997 baseline to ensure that individual PHAs are not forced to attrit--as HUD has already done by allowing the higher of units contracted or units leased. The Committee could recommend other ways of defining the Oct. 1, 1997 baseline, as long as they do not require HUD to “repay” PHAs and do not substantially increase HUD’s current and future budget costs for the tenant-based S.8 program.

The group discussed how HUD adds and subtracts units to amend each PHA's baseline number of units. Several members felt that the current method of accounting for portability penalizes one of the two PHAs involved in the transfer. HUD representatives commented that the portability accounting rules are not meant to penalize either PHA, and that over a period of several years, transfers into and out of a given PHA should roughly balance.

The group discussed further the problem of discrepancies between PHA and HUD data on the number of units leased and contracted on Oct. 1, 1997, and the continuing discrepancies in PHA and HUD data up to the present. One Committee member suggested that the unit baseline and amendments to it to the baseline should take into account not only the previous year's unit count, but also each PHA's anticipated demand for units and unit costs for the coming year, based on its waiting list. A HUD representative commented that all PHAs do not use the same methods or require the same information from families on their waiting lists. Therefore it would be very difficult for HUD to take waiting list data into account in amending PHA baselines.

B. Review of data on PHA Committee members' Oct. 1, 1997 unit baselines

The Andersen team distributed a set of graphs and tables with HUDCAPS data on each PHA Committee member's Oct. 1, 1997 baseline. Several PHA members commented that the numbers were not in line with their own counts. After it was clarified that the data were for Oct. 1, 1997 and not for the present, some of these PHA members were more confident that the HUDCAPS unit count could be accurate, but most wanted the opportunity to double-check the HUDCAPS data with data in their own files.

HUD representatives and PHA Committee members agreed that it would be useful for the Andersen team to request data from each PHA member, including ACCs, NOFAs and other adjustments to unit counts for several years before 1997. The purpose would be to correct any mistakes, double-check both HUD and PHA calculations, and explain to PHAs where the HUDCAPS numbers come from and how each PHA could arrive at the same numbers using the formula themselves.

Some time was spent discussing whether it would be possible for HUD to make changes for PHAs whose unit counts disagreed with HUD's for no clear reason. HUD representatives said that Congress would not be likely to allocate dollars to "fix" misunderstandings on unit allocations. Several Committee members concurred, and wondered if setting aside appropriations to correct "future" problems might be a better political strategy.

C. Alternatives to the Oct. 1, 1997 leased/contracted unit baseline

The Committee discussed other ways that baseline units could be determined, for instance by choosing dates other than Oct. 1, 1997, or using dollar allocations instead of unit allocations. Several Committee members thought that even though the Oct. 1, 1997 date seems arbitrary, it does provide a common starting point from which all could work together and move forward. Others felt strongly that this date "freezes" many

inequities among PHAs (e.g. by rewarding those who continued leasing during the 90-day freeze period declared by HUD) and so was a poor point from which to start. A PHA Committee member suggested that PHAs should have the option to use Oct. 1, 1998 as their baseline date, because by that time all PHAs had time to adjust to HUD interim rules and guidelines on baseline accounting and renewal funding.

HUD representatives commented that they did not want to “punish” any PHAs which may have overleased at that time by removing families from the program. If more families were being served, then they would stay on the books, and no PHA would have any units “taken away” as a result of revisiting or revising that baseline date. They indicated that HUD was willing to consider the possibility of allowing PHAs to use Oct. 1, 1998 as a baseline date.

D. Primary questions on baseline issues

After a break, the group agreed that the primary questions were:

1. Should the original Oct. 1, 1997 baseline *unit counts* be changed, or left as is?

Options include:

- a. Continue trying to resolve discrepancies in the Oct. 1, 1997 baseline, but do not create new ways of calculating the baseline.
- b. Allow another option for calculating the baseline for some PHAs (such as leased/contracted units on Oct. 1, 1998), as long as this option does not have substantial impacts on HUD’s program budget.
- c . Leave current baseline counts as is, without further corrections, and focus on forward adjustments.

2. Should the original Oct. 1, 1997 baseline *grant amounts* be changed, or left as is?

(Same a, b, c options as under question 1.)

3. What changes should be made in the system of actual cost renewal funding going forward? Should we use a new model?

- money, not units
- vary by type of PHA
- performance measures
- new data reconciliation method
- forward multi-year averaging
- other??

IX. COST ADJUSTMENTS AND PERFORMANCE INCENTIVES

The Committee turned to the question of how the baseline grant amount is adjusted year-to-year. HUD representatives explained that the current formula divides the annual budget by the number of units leased at the end of the year to determine a per-unit cost. It then multiplies the per-unit cost by the number of contracted units and by the metro/region annual adjustment factor (an inflation factor) to determine the total grant amount.

The Committee discussed a number of concerns with the current method for adjusting costs. Several Committee members commented that the current system creates a disincentive for PHAs to contain per-unit costs, because the higher a PHA's unit costs, the higher its funding for the next year. On the other hand, the current system creates a disincentive for PHAs to lease more than their contracted number of units, because their budgets are determined based on the contracted, not the leased number of units.

Several options were suggested to deal with this problem. One option would be to allow PHAs to use their program reserves to fund over-leasing from year to year. It was also suggested that the cost adjustment formula could factor in changes in bedroom size distribution and changes in tenant incomes.

Another option would be to allow PHAs to multiply their per-unit costs by the actual number of units leased, not by the contracted number. A HUD representative commented that HUD needs some way to hold PHAs accountable for cost containment and for meeting lease-up targets. If PHAs were allowed to multiply per-unit costs by the leased number of units, there would be no such incentives--each PHA would simply renew its funding at its actual cost.

The Committee then discussed the possibility of allowing PHAs more flexibility to decide the appropriate balance between subsidy per family and number of families assisted. If PHAs had more flexibility to decide the subsidy per unit and the number of units subsidized, HUD would need to focus its attention on monitoring PHA performance against broad HUD program goals. High-performing PHAs could be rewarded with greater flexibility in the use of funds, additional funds, or both.

A Committee member asked about the possibility of using the new Section Eight Management Assistance Program (SEMAP) as a way to gauge and reward performance. A number of PHA Committee members expressed some concern about using SEMAP as a basis for rewarding performance unless and until the system is tested and demonstrated to be a good gauge of performance. HUD representatives commented that SEMAP is still in an early pilot phase, and that HUD is currently planning to use it primarily to assist PHAs in meeting program goals, and in identifying troubled PHAs that need close supervision.

X. INFLATION FACTORS

The discussion of cost adjustment led the group to discuss the current rule's use of annual adjustment factors (AAFs). Questions were raised about the accuracy of the AAF at the local level. Several PHA Committee members gave examples of metro AAFs that lumped together local areas with very different rates of rental housing inflation.

After lunch, Joseph Reilly, a HUD AAF specialist, answered questions on how exactly AAFs were determined and what went into the AAF determinations for each region. Mr. Reilly said that AAFs for larger, metro regions are based on census information and the rental housing component of the Consumer Price Index. The CPI rental housing component does not distinguish between lower- and higher-cost rental housing. AAFs for non-metro, HUD-defined regions are determined by HUD using a random digit dialing (RDD) method to survey rent levels. Mr. Reilly confirmed that there is a procedure for PHAs to ask for a change in their AAFs, but it is complex and rarely used.

AAFs for metro and non-metro areas use data collected over a one-year period and averaged out to determine an annual inflation rate. For example, to calculate the FY 2000 inflation factor (for the Federal fiscal year starting on Oct. 1, 1999), data from mid-1998 to mid-1999 are collected, and an annual inflation rate is determined for FY 2000. Committee members and Mr. Reilly calculated that in some cases, a PHA's allocation for the final quarter of the current fiscal year could be affected by AAF data that are more than two years old.

Committee members suggested that it would be better for HUD to use a more up-to-date measure of rents, or at least to weight the AAF so that the most recent inflation data count for more than older data. Committee members also suggested that HUD and PHAs could collaborate with other government agencies to develop inflation factors that are more closely attuned to individual PHAs' housing markets. Several options were suggested, including surveys of local rents and use of local government or real estate agency data on rents.

Mr. Reilly responded that these options could work, but pointed out that the smaller the sample area, the higher the cost to obtain statistically valid data on costs. A HUD representative commented that more accurate AAFs could produce lower rather than higher inflation factors for some PHAs.

XI. UNIT- AND DOLLAR-BASED FUNDING SYSTEMS

At the suggestion of a Committee member, the Committee returned to a comparison of the current, unit-based approach to renewal funding and a possible dollar-based approach. HUD representatives clarified that the current system uses units as part of the formula to calculate grant amounts, but PHAs ultimately receive dollars from HUD, and they are not directly accountable for the number of units they lease with those dollars.

A. Pros and cons of unit-based and dollar-based systems

Committee members identified several concerns about the current, unit-based approach:

- limits PHAs' ability to decide the right balance between subsidy per family and number of families served;
- creates a "rubber-band" problem for PHAs that lease above their contracted number of units;
- for some PHAs, the Oct. 1, 1997 unit baseline may lock in the wrong number of units;
- ongoing discrepancies between HUD and PHA data on units contracted and leased create administrative and planning problems for both HUD and PHAs;
- unit numbers used in the calculation are not "real," in the sense that PHAs are not accountable for meeting specific unit targets
- AAFs do not always keep pace with anticipated increases in unit costs;
- as other policy changes allow PHAs to increase the subsidy per unit (e.g. increased flexibility for PHAs to go above the FMR payment standard), HUD may not be able to fully fund all PHAs under the current system.

Committee members also identified several positive features of the current, unit based system:

- ensures that PHAs will continue being able to assist the number of families currently being assisted (as long as AAFs are adequate);
- helps HUD make a strong case to Congress and the public that the program budget is directly linked to assisting a definite number of families;
- compared to a dollar-based system, may offer PHAs more funding per unit.

Committee members then discussed a possible dollar-based system. A HUD representative suggested a hypothetical "straw-man" dollar-based system for purposes of discussion. Under this system, PHAs would receive a grant amount every year that was based on their previous year's grant amount. This amount would be multiplied by an inflation factor, and adjusted by any additional funding that became available through NOFAs and other sources of funds (e.g. transfer of mod rehab units). The number of units leased or contracted would not enter into the grant amount.

Committee members identified several potential strengths of a dollar-based system:

- increased flexibility for PHAs to decide the balance between subsidy per family and number of families served;
- greater administrative simplicity, because units would not need to be counted and reconciled;

- greater clarity about the way program funding works (less confusion about unit-dollar translation).

Committee members also raised several questions and concerns about a dollar-based system:

- potentially greater risk to program budget, because the link between funds appropriated and the number of families served would not be as tight;
- how would PHA administrative costs be calculated (currently, these costs are calculated on a per-unit basis)?
- how would HUD maintain performance standards if PHAs were not regularly reporting unit counts and lease-up rates?

A Committee member suggested that HUD could maintain support for a minimum number of families under a dollar-based system by guaranteeing enough funding for each PHA to support its baseline number of families.

B. Performance incentives and accountability under either system

Some Committee members suggested that HUD could use the SEMAP system to monitor performance in a dollar-based or a unit-based system. Others repeated their concern that SEMAP has not been tested, and added that introducing a new funding system and SEMAP at the same time could be a major administrative challenge both for HUD and for PHAs. There was also concern that reliance on numerical performance indicators such as lease-up rates might lead HUD to take funding away from PHAs that were "under-performing" not because of management decisions, but because of changes in the rental market that made it difficult for S.8 recipients to find housing.

A HUD representative commented that HUD is not seeking to "punish" underperforming agencies by taking funding away from families. Instead, HUD is interested in improving the management of under-performing agencies, ideally by working with existing PHA managers, or by transferring contracts to new agencies that can manage effectively. High-performing PHAs might be rewarded with additional funds, with greater flexibility to use their own funds (for example, PHA reserves), or with greater access to HUD's program reserves.

Larry Susskind highlighted key questions raised in the conversation about performance measures and incentives:

- under either a unit-based or a dollar-based system, what forms of performance measures and incentives should there be?
- where would funds for performance incentives come from?
- how could PHAs use these funds?

XII. BASELINE WORKING GROUP

To conclude the meeting, the CBI facilitators identified eight issues for further discussion:

1. Refine the block grant proposal – a once-annual monetary allocation to each PHA.
2. Test run a 1998 baseline data model. What are the overall cost impacts?
3. Design a system/approach to resolving data discrepancies
4. Explore forward multi-year averaging (with or without waiting list), as opposed to current retroactive averaging.
5. Model national and local inflation factors separate from AAF. Is there any difference?
6. Model implications of changing circumstances – the matrix of rents and incomes up and down. Money vs. units.
7. Explore feasibility of changing the timing to synchronize all program awards (forward funding) through the fiscal year.
8. Explore possible strategies for freeing up funds to reward high performers.

They proposed that the Committee organize a Working Group to pursue several of these issues, especially those related to setting the baseline, prior to the next Committee meeting. They clarified that HUD, CBI and Andersen staff would be available to assist the Working Group. The facilitators asked Committee members to volunteer to participate in the Working Group. Several committee members expressed willingness to participate.

The Committee adjourned at 4:30 p.m..

Attachments:

HUD Handouts on Section 8 renewal funding process and PHA baseline units